

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CHARLENE CARTER,

*Plaintiff,*

v.

TRANSPORT WORKERS UNION  
OF AMERICA, LOCAL 556, and  
SOUTHWEST AIRLINES CO.,

*Defendants.*

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Civil Action No. 3:17-CV-2278-X

**ORDER ON NOTIFYING THE COURT OF UNAVAILABLE WITNESSES**

The Court appreciates the parties' deposition designations and corresponding objections. The Court assumes that the parties are aware of the requirements of the Federal Rules of Civil Procedure—specifically, Rule 32(a)(4)—and know that simply designating portions of a witness's deposition does not establish that the witness is “unavailable” for the purposes of Rule 32(a)(4). Unless the Court rules that a witness is in fact unavailable pursuant to the Federal Rules of Civil Procedure, the Court will not allow a deposition to replace a live witness.

Any party with a witness that meets the requirements of Rule 32(a)(4) **IS ORDERED** to notify the Court of such by Wednesday, June 15th at 5:00 pm. The party should explain with sufficient detail the factual basis for the witness's unavailability (e.g., the witness has passed away (Rule 32(a)(4)(A)); the witness is not under the control of either party, lives over 100 miles from the courthouse, and will not comply with a trial subpoena). Only if the Court determines that a witness meets

the legal test for unavailability will the Court undertake ruling on the objections within depositions that the parties are pressing.

**IT IS SO ORDERED** this 13th day of June, 2022.

A handwritten signature in black ink, appearing to read "Brantley Starr", is written over a horizontal line.

BRANTLEY STARR  
UNITED STATES DISTRICT JUDGE